

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

5 CLARENCE WALKER,
6 Petitioner,
7 vs.
8 UNITED STATES OF AMERICA,
9 Respondent.

Case No: C 09-2770 SBA
2255 MOT. – See CR 04-40106 SBA

**ORDER DENYING
REQUEST FOR CERTIFICATE
OF APPEALABILITY**

11 On September 27, 2012, the Court denied Petitioner’s Motion under 28 U.S.C.
12 § 2255 to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody. In its
13 order denying said motion, the Court made a finding that a Certificate of Appealability
14 (“COA”) was not warranted. Dkt. 175 at 9-10. The Court explained that it “has reviewed
15 the record of this case and finds that the issues are not debatable among jurists of reason.”
16 Id. (citing *Lambright v. Stewart*, 220 F.3d 1022, 1024-25 (9th Cir. 2000)).

17 On November 1, 2012, Petitioner filed a Notice of Appeal and a request for a COA,
18 the latter of which the Court liberally construes a request for reconsideration. “A motion
19 for reconsideration should not be granted, absent highly unusual circumstances, unless the
20 district court is presented with newly discovered evidence, committed clear error, or if there
21 is an intervening change in the controlling law.” 389 Orange Street Partners v. Arnold, 179
22 F.3d 656, 665 (9th Cir. 1999). None of these grounds is presented in Petitioner’s motion.
23 In addition, Petitioner has otherwise failed to persuade the Court that the denial of his
24 motion under 28 U.S.C. § 2255 raises issues that are debatable among jurists of reason.
25 Lambright, 220 F.3d at 1024-25. Accordingly,

1 IT IS HEREBY ORDERED THAT Petitioner's request for a COA is DENIED.
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3 IT IS SO ORDERED.
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Dated: November 13, 2012



SAUNDRA BROWN ARMSTRONG
United States District Judge

1
2 UNITED STATES DISTRICT COURT
3 FOR THE
4 NORTHERN DISTRICT OF CALIFORNIA

5 CLARENCE WALKER,

6 Plaintiff,

7 v.

8 USA et al,

9 Defendant.

10 _____/ Case Number: CV09-02770 SBA

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12 **CERTIFICATE OF SERVICE**

13
14 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
15 Court, Northern District of California.

16 That on November 21, 2012, I SERVED a true and correct copy(ies) of the attached, by placing
17 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by
18 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery
receptacle located in the Clerk's office.

19
20 Clarence Walker
21 2601 Nuestra Castillo Court
22 Apt. 2206
23 San Jose, CA 95127

24 Dated: November 21, 2012

25 Richard W. Wiking, Clerk

26 By: Lisa Clark, Deputy Clerk